

DOL Issues Final Overtime Rule, Increasing Threshold for Exemption to Over \$35K

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Authors: [W. Eric Baisden](#)

On Tuesday, September 24th, the DOL issued a final rule update to the federal law governing overtime pay that will affect thousands of workers and employers alike. The rule change will raise the salary threshold that employees must exceed before being considered exempt from overtime pay to over \$35,000 per year, and represents the first official increase of the salary threshold since 2004.

Earlier this year, the DOL published its [proposed rule change](#), indicating that the Trump administration was considering an increase to the salary threshold, following a legal challenge that had blocked the Obama administration's previous proposal to increase the salary threshold to over \$47,000. Tuesday's final rule update will formally rescind the Obama-era proposal, and eschew the former proposal's mechanism for automatically increasing the salary threshold at regular triennial intervals. The final rule does not commit to a specific method for increasing the threshold, instead opting to give the department "flexibility to adapt to unanticipated circumstances."

Highlights of the final rule update include:

- Increasing the salary threshold for overtime exemption from \$23,660 (\$455/week) to \$35,568 (\$684/week);
- Increasing the salary threshold for "highly compensated employees" from \$100,000 to \$107,432 (approximately \$40,000 less than the level proposed in March);
- Establishing specified salary thresholds for employees in the motion picture industry and various discrete U.S. territories[1]; and
- Allowing the inclusion of certain nondiscretionary bonuses and incentive payments to count toward up to 10 percent of the salary threshold.

The rule change will take effect on January 1, 2020, and will lead to approximately 1.2 million currently-exempt employees becoming eligible for overtime pay at a rate of 1.5 times their regular rate. In anticipation of this significant change, employers should consider reviewing their payroll and employee classification information, and auditing the fiscal impact of reclassifying any employees who will become overtime eligible under the new rule.

For more information about this proposed rule update, contact a member of the firm's [Labor & Employment Practice Group](#).

W. Eric Baisden at 216.363.4676 or ebaisden@beneschlaw.com

[1] These territories include Puerto Rico, the U.S. Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.